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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

Debtor.

Case No. BK-S-06-10725-LBR

Chapter 11

**Joint Motion to Amend Court's Order
Granting USACM Trust's Motion To
Allow Proofs of Claim Based Upon
Investment in the Amesbury Hatters
Point Loan as to Proof of Claim No.
10725-00474 by Frank Davenport**

Date of Hearing: April 19, 2012

Time of Hearing: 10:00 a.m.

Estimated Time for Hearing: 5 minutes

The USACM Liquidating Trust (the "USACM Trust") and Frank Davenport jointly move to amend Exhibit A to the Court's Order Granting USACM Trust's Motion to Allow Proofs of Claim Based Upon Investment In the Amesbury Hatters Point Loan [DE 9492] (the "Order"). More specifically, the parties seek to increase the amount of Mr. Davenport's allowed claim for Proof of Claim No. 10725-00474 from \$742.26 to \$25,000. Mr. Davenport invested \$25,000 in the Amesbury Hatters Point Loan and this will afford him the same treatment received by other Direct Lenders who invested in the Amesbury Hatters Point Loan. A copy of Proof of Claim No. 10725-00474 is attached as **Exhibit A** to this motion.

After the USACM Trust served Frank Davenport with a copy of the Motion to Authorize Second Installment of Second Distribution [DE 9693], Frank Davenport

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1 contacted counsel for the USACM Trust to inquire why his Amesbury Hatters Point claim
2 had only been allowed in the amount of \$742.26, which represents unremitted principal,
3 even though he had invested \$25,000 in the loan. The USACM Trust reviewed the matter
4 and determined that it had allowed the claim for \$742.26 because the amount shown on the
5 face of Mr. Davenport's proof of claim was stated as "\$742.26 or more."

6 Upon closer inspection, the USACM Trust notes that an attachment to the proof of
7 claim indicates that Mr. Davenport had invested \$25,000 in the Amesbury Hatters Point
8 Loan. The attachment expresses Mr. Davenport's uncertainty about what the amount of
9 his claim should be, but makes clear his intent to make a claim for the full amount of the
10 loan to Amesbury Hatters Point if appropriate. Accordingly, the Trust believes that Mr.
11 Davenport should have been given an allowed claim for \$25,000 and it now seeks to
12 correct the record to reflect that.

13 Pursuant to Bankruptcy Rules 3008 and 9024, the USACM Trust asks that the
14 Court amend the Order such that Proof of Claim No. 10725-00474 is allowed in the
15 amount of \$25,000. This result is consistent with the claim amounts allowed for the other
16 Direct Lenders who invested in the Amesbury Hatters Point Loan.

17 DATED March 9, 2012

18 LEWIS AND ROCA LLP

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